IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.29 OF 2006

M/s. Jai Constructions and Ors. ..Appellants

Versus

Manik Maruti Taklikar and Ors. ..Respondents

Mr.Rajiv Patil with Anand Kulkarni for appellants

Mr. G.S.Godbole with Kedar Kumthekar for respondent no.1

Mr. Surel Shah for respndent no.2

CORAM : A.M.KHANWILKAR,J.

DATE : 8TH FEBRUARY, 2006.

P.C.:

1. Heard counsel for the parties.

2. This appeal from order takes exception to the order passed by the Civil Judge, Senior Division, Solapur dated 8.12.2005 below Exh.31 in Spl. Civil Suit NO.177 of 2005. The said application was filed under the provision

of Order XXXIX, Rule 4 of the C.P.C. for modifying the interlocutory order passed below Exh.5 on 6.10.2005. The respondent no.1 herein has filed the suit for declaration and injunction. In that suit application for interim injunction was moved, which was granted on 6.10.2005 by passing the following order:

I Application Exh.5 is hereby granted.

II The plaintiff and defendant nos. 2 to 5 are hereby directed to maintain status quo in respect of the entire suit property till decision of the suit i.e. defendant nos.1 to 5 should not start with the work of any type of construction over the suit land in any manner till decision of the suit on the basis of their any document in respect of the suit land.

III The plaintiff is also hereby directed not to create any third party interest in the suit land on the basis of his any of the documents.

It is necessary to mention that this order is not challenged by the defendants. The defendants,however,

choose to file application under O.39 R.4 of the C.P.C.The court below has rejected the application by the impugned judgment with the reason that there was no changed circumstance to entertain such request. So far as that finding is concerned I have no difficulty to accept it as it is.

3. However, for the nature of controversy, I have examined the matter and orders passed therein, in my opinion, the interest of justice will be met if the trial court is directed to expedite the suit. Indeed, the suit is filed in the year 2005. However, as the pleadings are complete, the Trial Court is directed to proceed with the suit as expeditously as possible and dispose of the same preferably by the end of June 2007. With this direction the appeal as well as civil application stands disposed of.